

Remarks

Claims 2-10, 12-18, 20, and 21 were rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Publication No. 2002/0168290 ("Yuzhakov") in view of U.S. Patent No. 7,396,334 ("Kuhr"). Claims 2-13, 16, 17 and 21 depend (directly or indirectly) from independent claim 18. New claims 22-25 and 27 also depend from independent claim 18. Claim 19, which is directed to a device produced by a method of claim 21, is the base claim for the remaining dependent claims 14, 15, 20, and 26.

Regarding independent claim 18, the Official Action asserts that Yuzhakov discloses a method for producing combined puncturing and measuring devices by forming puncturing points on a band-shaped support material. The Official Action further states that Yuzhakov does not disclose sterilizing the puncture points. The Official Action states that Kuhr teaches such a limitation and that it would be obvious to include that teaching in Yuzhakov to prevent infection.

However, in rejecting claim 18, the Official Action fails to even discuss the limitation of "sealing the puncturing points." With the rejection of claim 18 being totally devoid of such a discussion, the rejection fails to make a *prima facie* case of obviousness. For at least this reason, independent claim 18, and dependent claims 2-13, 16, 17, 21-25, and 27 should be allowed.

More specifically, claim 2 requires "depressions are embossed into the band-shaped support material." The Official Action only addresses claim 2 by instructing applicant to "see channel 238." Applicant notes that simply looking at channel 238 provides no information on how the channel was formed. Indeed, Yuzhakov discusses etching, not embossing. Accordingly, even if the Applicant goes beyond the provided rejection, no support is found for embossing depressions. Thus, claim 2 is additionally allowable for this reason.

Claim 7 requires "a depression base which has a triangular contour." The Official Action takes Official Notice that triangular contoured depressions are well known in the art. Applicant respectfully requests actual evidence of such features in the prior art.

Claim 8 requires that the step of "forming recesses that define the puncturing points, the recesses being punched out or cut out from the band-shaped support material." The Official Action rejects this claim by discussing ways that depressions can be formed in metal.

Applicant believes that this claim has been misinterpreted by the Official Action. The claim is discussing the formation of the puncturing points, not the formation of the depressions within the puncturing points. Accordingly, the provided rejection is not germane to the claim.

Claim 12 requires "a coating covering the depressions and material containing the detection element are applied to the band-shaped support material in one work step." Claim 13 requires "a coating covering the depressions and a material containing the detection element are applied to the band-shaped support material one after the other." Thus, claims 12 and 13 discuss whether the coatings and detection elements are applied simultaneously or sequentially. For each claim, the Official Action cites paragraph [0082] of Yuzhakov. The cited paragraph discusses channels and discusses that the channels may include agents. However, the paragraph does not discuss the application of the detection elements, and does not discuss the application of the agents in relation to the application of detection elements. Accordingly, paragraph 0082 is unable to provide grounds for rejecting either claim 12 or claim 13.

Regarding claim 19, the Official Action cites Schenk as teaching a soft plastic cover. The cited passages of Schenk (col. 1, ll. 54-61 and col. 5, ll. 31-35) discuss a cover, but fail to discuss whether the cover is made of plastic, or whether the cover is made of soft plastic.

If necessary, Applicant requests that this response be considered a request for an extension of time appropriate for the response to be timely filed. Applicant requests that any required fees needed beyond those submitted with this amendment be charged to the account of Baker & Daniels, Deposit Account No. 02-0390.

The Examiner is invited to contact the undersigned at the telephone number provided below should any question or comment arise during consideration of this matter.

Respectfully Submitted,

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